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Attorneys for Rabo AgriFinance LLC

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON (SPOKANE/YAKIMA)

IN RE:

EASTERDAY RANCHES, INC.,
et al.,

Debtors.¹

CASE NO. 21-00141-WLH11
(Jointly Administered)

**RESPONSE OF RABO AGRIFINANCE
LLC TO MOTION OF DEBTORS FOR
ENTRY OF ORDER AUTHORIZING
AND APPROVING THE
COOPERATION AGREEMENT WITH
THE NON-DEBTOR SELLERS**

Rabo AgriFinance LLC ("Rabo"), through counsel, respectfully files this Response to the *Notice and Motion of Debtors for the Entry of an Order Authorizing and Approving the Cooperation Agreement with the Non-Debtor Sellers; Memorandum of Points and Authorities*, filed March 26, 2021 [Dkt. 487] as supplemented various times including through the filing on April 14, 2021 [Dkt.

¹ The Debtors along with their case numbers are as follows: Easterday Ranches, Inc. (21-00141) and Easterday Farms, a Washington general partnership (21-00176).

RESPONSE TO DEBTORS'
MOTION TO APPROVE
COOPERATION AGREEMENT

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1 576] of that certain *Notice of Filing Redlined and Clean Revised Exhibit A*
2 *Cooperation Agreement to Motion of Debtors for the Entry of an Order*
3 *Authorizing and Approving the Cooperation Agreement with the Non-Debtor*
4 *Sellers* (collectively, the “Cooperation Agreement Motion”).

5 For its response to the Cooperation Agreement Motion, Rabo states as
6 follows:

7 1. Rabo has no objection to approval of the Cooperation Agreement
8 Motion as it contemplates an agreement between the Debtors and certain related
9 non-debtors, those being Karen Easterday, both individually and in her capacity as
10 the personal representative of the estate of Gale Easterday, Cody Easterday and
11 Debby Easterday (collectively, the “Non-Debtor Sellers”), for the joint sale of
12 certain “Sale Properties” owned either by the Debtors, or by the Non-Debtor
13 Sellers or jointly by the Debtors and the Non-Debtor Sellers.

14 2. Rabo responds to the Cooperation Agreement Motion, however,
15 because it has recently been asked to consent to the issuance of an injunction from
16 this Court which would bar Rabo from prosecuting the claims it has recently
17 asserted in that certain action now pending in the United States District Court for
18 the Eastern District of Washington entitled Rabo AgriFinance LLC v. 3E
19 Properties, a Washington general partnership et al., Case No. 21-CV-05066 (the
20 “Rabo Foreclosure Litigation”).

21 3. Rabo will not voluntarily consent to be enjoined from its prosecution
22 of the Rabo Foreclosure Litigation. The Rabo Foreclosure Litigation contains two
23 causes of action only.
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1 4. The first cause of action in Rabo's Complaint requests a decree of
2 judicial foreclosure and order of sale of the following parcels of real estate (the
3 "Foreclosure Parcels");

4 Property Address: 5235 Industrial Way/1427 N. 1st Ave., Pasco, WA 99301
5 Assessor Parcel Numbers: 112021017 and 113130040
6 Abbreviated Legal: Portion of SW4 of 8-9-30 and Blocks 13 and 14,
7 Northern Pacific Addition to the City of Pasco

8 Property Address: 90 and 110 Pillsbury Road, Mesa WA 99343
9 Assessor Parcel Numbers: 121231032 and 121231091
10 Abbreviated Legal: Lots 1 and 2, Short Plan No. 98-09

11 5. The Foreclosure Parcels are not properties that are the subject of the
12 Cooperation Agreement Motion. In other words, the Foreclosure Parcels are not
13 "Debtor Properties," "Joint Properties" or "Non-Debtor Properties" as defined in
14 the motion, and they are not going to be sold as part of the sale process that the
15 Debtors have proposed.

16 6. Three of the four Foreclosure Parcels are owned by 3E Properties, a
17 Washington general partnership. 3E Properties is an entity that is not even a
18 proposed party to the contemplated Cooperation Agreement.²

19 7. The second cause of action in Rabo's Complaint seeks a money
20 judgment against Karen Easterday, Cody Easterday and Debby Easterday for
21 breach of contract (as to Cody Easterday) and pursuant to RCW 25.05.125 (with

22 ² The property at 90 and 110 Pillsbury Road is titled solely in the name of 3E
23 Properties. With respect to the property located at 5235 Industrial Way, 3E
24 Properties is the sole owner of one of the parcels. The other parcel is titled in the
25 names of Karen Easterday, both individually and as the personal representative of
26 the estate of Gale Easterday, Cody Easterday, Debby Easterday, and Jody
Easterday. Jody Easterday also is not a proposed party to the Cooperation
Agreement.

1 respect to all three individual defendants). If the District Court authorizes the
2 Foreclosure Property to be sold as requested by Rabo then pursuit of the second
3 cause of action will become unnecessary.

4 8. Because the Foreclosure Property is not property that is contemplated
5 to be sold as part of the joint marketing and sale process that is the subject of the
6 proposed Cooperation Agreement, and also because many of the owners of the
7 Foreclosure Property are not even going to be parties to the Cooperation
8 Agreement (again, 3E Properties owns three of the four parcels and Jody Easterday
9 is on title to the other parcel), Rabo believes it is in its best interest to continue its
10 prosecution of the Rabo Foreclosure Litigation.

11 9. Rabo reserves all of its rights, both procedural and substantive, with
12 respect to any attempt by the Debtors or any third party to bind Rabo to the terms
13 of the Cooperation Agreement, or to enjoin Rabo from continued pursuit of its
14 claims against property that is not property of the bankruptcy estate, and against
15 defendants who are not bankruptcy debtors before this Court. Rabo also does not
16 waive its right to demand that any request for injunctive relief be made by
17 adversary proceeding, as required by Federal Rule of Bankruptcy Procedure 7001.

18 DATED this 27th day of April, 2021.

19
20 RAY QUINNEY & NEBEKER P.C.

21
22 /s/ David H. Leigh

23 David H. Leigh
24 Attorneys for Rabo AgriFinance LLC
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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of April, 2021, I electronically filed the foregoing with the Clerk of the Court the CM/ECF System, which served notice and/or a copy of the foregoing on all electronic filing users in this case.

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